

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE DISTRICT OF SOUTH CAROLINA

Patrick L. Booker,)	Civil Action No.: 8:12-1957-MGL-JDA
)	
Plaintiff,)	
)	
vs.)	ORDER AND OPINION
)	
South Carolina Department of Corrections;)	
Sylvia Jones; Ann Sheppard; Thierry Nettles,)	
)	
Defendants.)	
_____)	

Plaintiff Patrick L. Booker (“Plaintiff”) is a state prisoner currently housed at the Evans Correctional Institution of the South Carolina Department of Corrections. At all times relevant to the remaining claims of this action, Plaintiff was housed at Lieber Correction Institution. This case was removed from the Court of Common Pleas for McCormick County, South Carolina on July 13, 2012. (ECF No. 2.)

In accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02 D.S.C., this matter was referred to United States Magistrate Judge Jacquelyn D. Austin for pretrial handling. On September 12, 2012, Magistrate Judge Austin issued a Report and Recommendation recommending *inter alia* that Plaintiff’s Motion to Remand (ECF No. 19) be granted as to the causes of action outlined in the Complaint at paragraphs 30-31 and in the Amended Complaint at paragraphs 1-8, and that Plaintiff’s Motion to Remand be denied as to all other claims. (ECF No. 32.)

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with this court. *See Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). The court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the Magistrate Judge. 28 U.S.C. § 636(b)(1). The court may also receive further evidence or recommit the matter to the Magistrate

Judge with instructions. *Id.* The court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objections are made.

The parties were advised of their right to file objections to the Report and Recommendation. (ECF No. 32-1.) Neither party filed objections to the Report and Recommendation, and the time for doing so expired on October 1, 2012. In the absence of a timely filed objection, a district court need not conduct a *de novo* review, but instead must “only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005).

After a careful review of the record, the applicable law, and the Report and Recommendation, the court finds the Magistrate Judge’s recommendation to be proper. Accordingly, the Report and Recommendation is incorporated herein by reference. Plaintiff’s motion to remand is GRANTED as to the causes of action outlined in the Complaint at paragraphs 30-31 and in the Amended Complaint at paragraphs 1-8. Those claims are REMANDED to the Court of Common Pleas for McCormick County, South Carolina. The remaining claims in Plaintiff’s motion to remand are DENIED.

This action is recommitted to the Magistrate Judge for further pretrial handling.

IT IS SO ORDERED.

s/ Mary G Lewis
United States District Judge

Spartanburg, South Carolina
November 7, 2012